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Attorneys for Defendant Valley County

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ELENA SALINAS,

Plaintiff,

v.

VALLEY COUNTY, LUKE
STROMMEN, & JOHN DOES 1-3,

Defendants.

No. CV-19-90-GF-BMM

**DEFENDANT VALLEY
COUNTY'S ANSWER TO
PLAINTIFF'S SECOND
AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

COMES NOW Defendant Valley County, by and through its attorney of record, Harlan B. Krogh, Crist, Krogh, Alke & Nord, PLLC, and for its Answer to Plaintiff's Second Amended Complaint and Demand for Jury Trial, admits, denies and alleges to each of the numbered paragraphs of the Complaint as follows:

PARTIES, JURISDICTION AND VENUE

1. Valley County is without sufficient information in which to admit or deny the residence of Plaintiff Elena Salinas at the time the Second Amended Complaint was filed and therefore must deny that allegation at this time.

2. The allegations contained in paragraph II of the Second Amended Complaint are directed at another Defendant and therefore no response is required from Valley County. If a response is deemed to be required, Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph II of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

3. Defendant Valley County admits that Valley County is a political subdivision of the State of Montana and a governmental entity that is subject to liability according to Montana law. Defendant Valley County Sheriff's Department properly known as the Valley County Sheriff's Office is a law enforcement agency which provides public safety services on behalf of Valley County. Valley County Sheriff's Office is not a separate governmental entity.

4. The allegations contained in paragraph IV of the Second Amended Complaint are directed at other unnamed defendants and therefore no response is required from Valley County.

5. Defendant Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph V of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

6. Defendant Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph VI of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

7. The allegations contained in paragraph VII of the Second Amended Complaint amount to statements of law or legal argument which do not require a response. As to the remaining allegations, Defendant Valley County admits that Luke Strommen was formerly employed with the Valley County Sheriff's Office. Valley County denies the remaining allegations.

8. Defendant Valley County denies the allegations in paragraph VIII of Plaintiff's Second Amended Complaint.

**COUNT I
NEGLIGENT HIRING**

9. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

10. Defendant Valley County admits that it hired Defendant Luke Strommen and he was employed at times as a Deputy and as the Valley County

Undersheriff during his former employment. As for the remaining allegations, Valley County denies the allegations contained in paragraph X of Plaintiff's Second Amended Complaint.

11. Defendant Valley County denies the allegations contained in paragraph XI of Plaintiff's Second Amended Complaint.

12. Defendant Valley County denies the allegations contained in paragraph XII of Plaintiff's Second Amended Complaint.

13. Defendant Valley County denies the allegations contained in paragraph XIII of Plaintiff's Second Amended Complaint.

COUNT II NEGLIGENT RETENTION

14. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

15. Defendant Valley County denies the allegations contained in paragraph XV of Plaintiff's Second Amended Complaint.

16. Defendant Valley County denies the allegations contained in paragraph XVI of Plaintiff's Second Amended Complaint.

17. Defendant Valley County denies the allegations contained in paragraph XVII of Plaintiff's Second Amended Complaint.

**COUNT III
NEGLIGENT SUPERVISION OF EMPLOYEE**

18. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

19. Defendant Valley County denies the allegations contained in paragraph XIX of Plaintiff's Second Amended Complaint.

20. Defendant Valley County denies the allegations contained in paragraph XX of Plaintiff's Second Amended Complaint.

21. Defendant Valley County denies the allegations contained in paragraph XXI of Plaintiff's Second Amended Complaint.

22. Defendant Valley County denies the allegations contained in paragraph XXII of Plaintiff's Second Amended Complaint.

**COUNT IV
BATTERY**

23. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

24. The allegations contained in paragraph XXIV of the Second Amended Complaint are directed at another defendant and therefore no response is required from Valley County. If a response is deemed to be required, Valley County is without sufficient information in which to admit or deny the allegations contained

in paragraph XXIV of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

**COUNT V
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

25. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

26. Defendant Valley County denies the allegations contained in paragraph XXVI of Plaintiff's Second Amended Complaint.

27. Defendant Valley County denies the allegations contained in paragraph XXVII of Plaintiff's Second Amended Complaint.

**COUNT VI
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

28. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

29. The allegations in paragraph XXIX of the Second Amended Complaint are directed at another defendant and therefore no response is required from Valley County. If a response is deemed to be required, Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph 29 of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

30. The allegations in paragraph XXX of the Second Amended Complaint are directed at another defendant and therefore no response is required from Valley County. If a response is deemed to be required, Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph 30 of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

**COUNT VII
RESPONDEAT SUPERIOR**

31. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

32. The allegations contained in paragraph XXXII amount to statements of law or legal argument that do not require a response. As to the remaining allegations, Defendant Valley County denies the same.

33. The allegations contained in paragraph XXXIII of the Second Amended Complaint and Demand for Jury Trial amount to statements of law or legal argument that do not require a response from this Defendant.

34. The allegations contained in paragraph XXXIV of the Second Amended Complaint and Demand for Jury Trial amount to statements of law or legal argument that do not require a response from this Defendant.

35. Defendant Valley County denies the allegations contained in paragraph XXXV of Plaintiff's Second Amended Complaint.

COUNT VIII
42 U.S.C. Section 1983

36. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

37. The allegations in paragraph XXXVII of the Second Amended Complaint are directed at another defendant and therefore no response is required from Valley County. If a response is deemed to be required, Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph XXXVII of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

38. The allegations in paragraph XXXVIII of the Second Amended Complaint are directed at another defendant and therefore no response is required from Valley County. If a response is deemed to be required, Valley County is without sufficient information in which to admit or deny the allegations contained in paragraph XXXVIII of the Second Amended Complaint and Demand for Jury Trial and therefore must deny the same at this time.

COUNT IX
PUNITIVE DAMAGES

39. Defendant Valley County re-alleges and incorporates by reference each of its responses in the preceding paragraphs herein.

40. Defendant Valley County denies the allegations contained in paragraph XL of Plaintiff's Second Amended Complaint.

41. Defendant Valley County denies each and every allegation contained in the Second Amended Complaint that is not specifically admitted.

AFFIRMATIVE AND OTHER DEFENSES

1. Plaintiff's Second Amended Complaint fails to state a viable claim for relief that can be granted against Defendant Valley County.

2. Plaintiff's claims may be barred by the applicable statute of limitations.

3. Plaintiff's pleadings describe alleged acts by Defendant Luke Strommen that, if proven, did not occur within the course and scope of his former employment with Valley County Sheriff's Office. An employee's actions made entirely for his own benefit are generally not within the scope of his employment. Valley County is not liable for the alleged actions of Luke Strommen under *Respondeat Superior* doctrine.

4. Plaintiff Elena Salinas' alleged damages may have been caused by her own actions/inactions or intentional and wrongful conduct and therefore recovery is barred entirely or must be reduced accordingly under the provisions of Mont. Code Ann. § 27-1-702.

5. Defendant Valley County may be entitled to contribution pursuant to Mont. Code Ann. Section 27-1-703.

6. Any verdict or judgment that might be recovered by Plaintiff must be reduced by those amounts that have already indemnified, or will in the future with reasonable certainty, indemnify Plaintiff in whole or in part for any past or future claimed loss.

7. Defendant Valley County owed no legal duty to Plaintiff under the circumstances pled herein.

8. Defendant Valley County's actions did not breach any duty of care to Plaintiff.

9. Plaintiff's alleged damages were not proximately or legally caused by any act or omission of Defendant Valley County but rather were the proximate or legal result of the acts or omission of Plaintiff's own conduct, negligence, and fault and/or the conduct, negligence and fault of others and thus should be barred or reduced accordingly.

10. Discovery may disclose that Plaintiff failed to reasonably mitigate her claimed damages.

11. Plaintiff is not entitled to an award of punitive/exemplary damages against Defendant Valley County as that relief is prohibited according to Montana law.

12. Plaintiff is not entitled to attorneys' fees or costs. In the event attorney's fees are available, Defendant Valley County is entitled to an award of their attorney's fees in defending against Plaintiff's claims.

13. Defendants may be entitled to the protections of qualified immunity.

14. Plaintiff's damages, if any, are limited by Sections 2-9-105, 2-9-108, 2-9-314, and 2-9-317, Mont. Code. Ann.

15. Defendant Valley County reserves the right to plead or withdraw such other Affirmative Defenses which through ongoing investigation and discovery are found to be applicable or inapplicable to the facts of this case.

WHEREFORE, Defendant Valley County prays for the following relief:

1. That Plaintiff take nothing by way of her Second Amended Complaint and Demand for Jury Trial;

2. That judgment be entered in favor of Defendant Valley County and against Plaintiff;

3. That the Court award Defendant Valley County its costs of suit; and,

4. For any other and further relief as the District Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Defendant Valley County hereby demands a trial by jury on all issues so triable.

DATED this 7th day of April, 2020.

CRIST, KROGH, ALKE & NORD, PLLC

By: /s/ Harlan B. Krogh
Harlan B. Krogh

*Attorneys for Defendant
Valley County*

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2020, a copy of the foregoing document was served on the following persons by the following means:

1-3 CM/ECF
 Hand Delivery
 Mail
 Overnight Delivery Service
 Fax
 Email

1. Clerk, U.S. District Court

2. Adam Cook
J. Ben Everett
Everett Law, PLLC
217 East Park Avenue
P. O. Box 969
Anaconda, MT 59711
Attorneys for Plaintiff

3. Jason Holden
Katie R. Ranta
Faure Holden
1314 Central Avenue
P. O. Box 2466
Great Falls, MT 59401
Attorneys for Defendant Luke Strommen

/s/ Harlan B. Krogh
Harlan B. Krogh
Attorney for Defendant
Valley County